

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4378 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

EBHALBHAI HATHIBHAI GIDA

Versus

STATE OF GUJARAT

Appearance:

MR HH RAWAL for Petitioner

MR MUKESH PATEL for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 02/11/1999

ORAL JUDGEMENT

#. Heard the learned counsel for the parties.

#. The petitioner prayed for following reliefs:

- (a) This Hon'ble Court be pleased to issue
the writ of mandamus or in the nature of mandamus
or any other appropriate writ, direction or order

directing the respondents to calculate and grant the petitioner the amount of pension on the basis of Sarela Pay Commission and Desai Pay Commission along with the interest at the rate of 21% per annum from 10th October, 1972 (the date of retirement of the petitioner) till the date of actual payment.

(b) During the pendency, admissions and final disposal of the petition, be pleased to direct the respondents to pay to the petitioner the pension at the rate of Rs.700/= per month

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#. Reply to the special civil application has been filed by respondents. The Desai Pay Commission was given effect to from 1.1.73. The petitioner on his own request, stood voluntarily retired from 10.10.72 and as such this claim of petitioner is not justified. So far as the claim of petitioner for fixation of pension etc. as per Sarela Pay Commission is concerned, it is suffice to say that this benefit has been given to the petitioner as it is borne out from para-5 of the reply to the special civil application. The petitioner has not controverted this fact by filing rejoinder and the same are to be accepted. Another claim of petitioner for giving him notional benefit of five years services' has also been given to the petitioner. However, as he reached the maximum scale where there was an efficiency bar and the petitioner was not allowed to cross efficiency bar, it is a different matter that he could not get the benefits. The petitioner could not get the benefits for the reasons that he could not cross efficiency bar and he has not challenged this action of respondents. Moreover, I find sufficient merits in the reply of the respondents that this writ petition deserves to be dismissed only on the ground of inordinate delay. The petitioner retired from services on 10.10.72 and for these benefits, he filed this writ petition in the year 1987, i.e. after more than 15 years of his retirement. So taking into consideration the matter from any angle, on merits as well as on the ground of inordinate delay, the claim of the petitioner deserves no acceptance.

#. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated. No order as to costs.

(S.K.Keshote, J.)

[sunil]